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PTO/SB/21 (6-98)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/300,676	
	Filing Date	April 27, 1999	
	First Named Inventor	Doyle	
	Group Art Unit	2742	
	Examiner Name	Deane, W.	
Total Number of Pages in This Submission	22	Attorney Docket Number	98EC003/73744

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notices, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-top: 10px;">RECEIVED OCT - 2 2000 1C 2700 MAIL ROOM</div>
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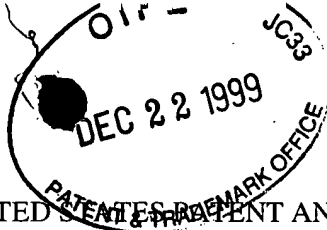
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Firm or Individual Name	Jon P. Christensen, Registration No. 34,137		
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Date: Dec 22, 1999
File No. 98EC003/73744

Q. 2742

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Doyle et al.
Serial No.: 09/300,676
Filed: April 27, 1999
For: DYNAMIC SKILL-BASED ROUTING
Group Art Unit: 2742
Examiner: Deane, W.

ASSISTANT COMMISSIONER FOR PATENTS
Washington D.C. 20231

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Transmitted herewith is an amendment in the above-identified application.

(X) No additional fee is required.

Fee Calculation For Claims As Amended

	As Amended	Previously Paid For	Present Extra	Rate	Additional Fee
Total Claims	38	- 38	= 0	x \$18.00	\$.00
Independent Claims	4	- 4	= 0	x \$78.00	\$.00
Fee for Multiple Claims				\$260.00	\$.00
Total Additional Fee					\$.00
() Small Entity Fee (reduced by half)					\$
() A check in the amount of \$_____ is enclosed.					
(X) Other: <u>1 sheet proposed corrected drawing</u>					
() Charge \$_____ to Deposit Account No. 03-2470.					
(X) The Commissioner is hereby authorized to charge any additional fees which may be required to this application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 03-2470. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No.03-2470. A duplicate copy of this sheet is enclosed.					

120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500

WELSH & KATZ, LTD.

By:

Jon P. Christensen
Registration No. 34,137

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Doyle, et al.

Art Unit: 2742

Serial No.: 09/300,676

Filed: April 27, 1999

For: DYNAMIC SKILL-
BASED ROUTING

Attorney

Docket No.: 98EC003/73744

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9-27-00 Billina Chambers
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APPELLANT'S RESPONSE UNDER 37 C.F.R. §1.193(b)

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to new points raised in the Examiner's

Answer of August 14, 2000, the applicant responds as follows.

The Examiner asserts for the first time on appeal (Examiner's Answer, p. 4) that "Tonisson teaches assigning a call to an agent with a relative difference between an actual occupancy and a target occupancy . . . With respect to the comparison step (not recited in the claims), such is also taught by Tonisson". As may be best understood, the Examiner is apparently suggesting that the assignment of calls and logging of agents into and out of the queues of Tonisson is somehow part of a single process. A review of Tonession, however, reveals that the assignment of calls to

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queues and the logging of agents into and out of the queues are two separate and unrelated processes.

For example, as admitted by the Examiner "Calls incoming to the call center on lines or trunks 100 are assigned by call vector 140 to different call queues 121-129 based upon the agent skill that they require for their proper handling" (Examiner's Answer, p. 4; see also Tonisson, col. 4, lines 13-16). The assignment of calls to a call queue is not the same as "assigning the call to an agent . . . with the largest relative difference between an actual occupancy . . . and the target occupancy" (Claim 1, lines 13-17).

Further, as admitted by the Examiner "As agents become available, if there is a call in one of the call queues corresponding to a skill that the agent is logged into, the first call is taken from one of the call queues and is passed to the agent" (Examiner's Answer, bottom of p. 4). Assignment of the first call from one of the call queues to agents, as they become available, is clearly not the same as "assigning the call to an agent . . . with a largest relative difference between an actual occupancy . . . and the target occupancy". More specifically, the passing of the first call in the call queue to agents "as they become available" clearly demonstrates that Tonisson does not assign calls based upon a relative difference between an actual occupancy and a target occupancy.

Next, the Examiner asserts for the first time on appeal that

"Now, applicants contend that Tonisson only teaches logging an agent into and out of a skill queue. The Examiner disagrees. It is true that Tonisson teaches logging an agent into and out of a skills. However, this logging into and out of a skill is based on, as discussed above, the difference between an actual occupancy and a target occupancy. Therefore, if an agent is logged into and out of a skill based on the difference between an actual occupancy and a target occupancy and if calls assigned to an agent are based upon agent skill, then inherently, the call is assigned based on the difference between an actual occupancy and target occupancy" (Examiner's Answer, p. 5).

The flaw in the Examiner's argument, of course, is that under the claimed invention calls are not assigned based simply upon "the difference between an actual occupancy and a target occupancy. Instead, under the claimed invention, calls are assigned based upon a largest relative difference between an actual occupancy and a target occupancy. Assigning calls based upon a largest relative difference allows for better control of the call queue by allowing for a relative constant number of agents to be assigned to the queue. A person of skill in the art would appreciate that system stability would be considerably improved by avoiding the uncertain service levels associated with logging of agents into and out of the queue.

At best, Tonisson describes a threshold process where an agent is logged into and out of a queue based upon whether his actual work proportion exceeds his optimal work proportion. If

the agent's actual work proportion is below the optimal work proportion, then he is logged into a queue. If not, he is logged out of the queue. There is no comparison among agents and assignment of calls based upon which agent has the "largest relative difference between an actual occupancy of calls of the first type handled by the agent and the target occupancy of calls of the first type determined for the agent in the target occupancy matrix" (Claim 1, lines 13-19). Since there is no teaching of this explicit claim element, the rejection is improper and should be overturned.

The Examiner admits next, for the first time on appeal, that he made a "slight oversight". "Obviously, after the word 'by' the examiner intended that the phrase -- the claims of -- be inserted" (Examiner's Answer, p. 6). However, the addition of the words "the claims of" after "by" would result in the anomalous statement that "Giving Tonisson the broadest possible interpretation it is believed that such assigning of calls is taught by the claims of Tonisson". However, this correction by the Examiner suffers from the same problem (i.e., it is the claims of the invention which are to be given the broadest possible interpretation, not the claims of the prior art).

The Examiner asserts that "the use of 'Tonisson' twice as written puts one on notice that something is missing". The

applicant's attorney agrees with this statement. The thing that is missing is the proper application of 35 U.S.C. §102(e).

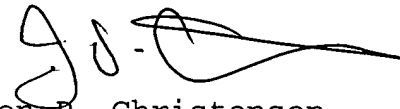
The Examiner asserts next, for the first time of appeal, that "It is not understood how one could read Tonisson and then read page 5, last paragraph - the end of page six of the present application and not see that Tonisson teaches both an occupancy and target matrices" (Examiner's Answer, p. 7). It is noted in this regard that even if one were to assume *arguendo* that Tonisson did teach both occupancy and target matrices (which it does not) Tonisson still fails to provide any teaching of the use of differences among agents between optimum work proportion and actual work proportion as a basis for preferentially assigning calls. Since Tonisson fails to provide any teaching regarding the assigning of calls among agents based upon a largest relative difference between an actual occupancy and a target occupancy of each agent, Tonisson is clearly different than the claimed invention. Since Tonisson is clearly different, the rejection is improper.

For the foregoing reasons, allowance of claims 1-38, as now presented, is believed in order. It is respectfully requested that this board reverse the decision of the Examiner in all respects.

Respectfully submitted,

WELSH & KATZ, LTD.

By


Jon P. Christensen
Registration No. 34,137

September 27, 2000
WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500